

REMARKS

Claims 1-17 are pending in this application. Claims 1, 6, 9, 12, 14 and 16 have been amended by way of the instant amendment; upon which entry, claims 1-17 will be pending. The claim amendments find support in the specification, paragraph 0038, for example. Accordingly, there are no issues of new matter.

Allowable Subject Matter

Claims 9-15 stand objected to as being dependent upon rejected base claims, but indicated as allowable if rewritten in independent form. Claims 9, 12 and 14 have been amended to be independent. Claims 10 and 11 remain dependent on claim 9; claim 13 on claim 12; and claim 15 on claim 14. Accordingly, claims 9-15 are believed to be allowable. The Applicant respectfully requests the withdrawal of the objections.

Double Patenting Rejection

Claims 6-7 and 16-17 stand provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 9-10 and 17-18 of copending Application No. 10/625,597 in view of *Wolff et al* (U.S. Patent No. 6,081,261). The Applicant respectfully requests that the rejection be held in abeyance until such time as the claims are allowed.

35 USC § 103(a) Rejections

Claims 1-8 and 16-17 stand rejected under 35 USC § 103(a) as unpatentable over *Wolff et al* (U.S. Patent No. 6,081,261) ("*Wolff*") in view of *Ericson* (U.S. Patent No. 6,666,376). The Applicant respectfully requests the withdrawal of these rejections because the references do not render obvious the subject matters of claims 1-8 and 16-17.

Claims 1-5 Patentable Over the Cited References

Consider claim 1, which recites in part:

if portions of the capture data conflict, selecting the portion of the conflict-

ing capture data that was captured last as the capture data;

Wolff does not teach or suggest every element of the subject matter of claim 1. The reference refers to time in a number of instances. First, it is referenced in the context of a calendar. For example, "Column of rectangles 22 and 22' are available for selecting and identifying the time by entering a suitable mark. . ." *Wolff*, col. 3, lines 47-49. A look at Fig. 1 would make it clear that time as used here refers to the physical selectable times on a printed schedule. Second, it is used to distinguish stroke segments. For example, "Gaps between pressure intervals may indicate the gap between segments." *Wolff*, col. 5, lines 13-14. Third, time is used to determine phases of act. For example, "By using time-synchronized multi-sensor data, the pen-instrument written message can be used to parse the input message into distinct and interpretable acts." *Wolff*, col. 5, lines 20-22. None of these references in *Wolff* constitutes "if portions of the capture data conflict, selecting the portion of the conflicting capture data that was captured last as the capture data" of claim 1.

Ericson does not bridge *Wolff*'s gap. It refers to time in generally the same manner as *Wolff*. See *Ericson*, col. 5, lines 37-38.

Therefore, the references, in isolation or combination, do not teach or suggest the invention as claimed here, and claim 1 is, at least on this ground, not believed to be obvious in view of them. Accordingly, the Applicant respectfully requests the withdrawal of the 35 USC § 103(a) rejections against independent claim 1 and dependent claims 2-5.

Claims 6-8 and 16-17 Patentable Over the Cited References

Claims 6 and 16 recite similar language as claim 1. Thus, for at least the same reasons as before, the references, in isolation or combination, do not teach or suggest the invention as claimed here, and claims 6 and 16 are not believed to be obvious in view of them. Accordingly, the Applicant respectfully requests the withdrawal of the 35 USC § 103(a) rejections against independent claim 6 and dependent claims 7-8, and claim 16 and dependent claim 17.

For at least these reasons, the Applicant submits that the references do not render obvious the subject matters of claims 1-8 and 16-17, and respectfully request the reconsideration and withdrawal of the § 103(a) rejections against these

claims. If the Examiner wishes to maintain the rejections, the Applicant respectfully requests that the Examiner elaborate on where the references teach each and every element claimed here and what the exact motivation is to combine the references, in view of the remarks above.

CONCLUSION

Claims 1-17 are believed to be patentable.

The Examiner is invited to call the undersigned at (202) 220-4200 to discuss any information concerning this application.

The Office is hereby authorized to charge any fees or credit any overpayment to Deposit Account No. 11-0600.

Respectfully submitted,

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